MONTANA LEGISLATIVE HISTORY

Chapter 407 19 93

Bill H 496 S _____ Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Feb 12	✓ C	Hearing Date(s)	mar 12	✓ C
		C			C
		C			C
		C			C
Date Out	Feb 13	✓ C		mar 12	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

4/22	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	48	0
4/22	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	48	0
4/24	SIGNED BY SPEAKER		
4/24	SIGNED BY PRESIDENT		
4/26	TRANSMITTED TO GOVERNOR		
5/04	SIGNED BY GOVERNOR CHAPTER NUMBER 599 EFFECTIVE DATE: 05/04/93		

HB 496 INTRODUCED BY WYATT, ET AL.

REVISE MONTANA HUMAN RIGHTS LAWS

BY REQUEST OF COMMISSION FOR HUMAN RIGHTS

2/05	INTRODUCED		
2/05	REFERRED TO JUDICIARY		
2/05	FIRST READING		
2/12	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/15	PLACED ON CONSENT CALENDAR		
2/17	3RD READING PASSED	99	0
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO JUDICIARY		
3/12	HEARING		
3/15	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/16	2ND READING CONCURRED	50	0
3/17	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/01	2ND READING AMENDMENTS CONCURRED	91	4
4/02	3RD READING AMENDMENTS CONCURRED	90	8
4/13	SIGNED BY SPEAKER		
4/13	SIGNED BY PRESIDENT		
4/14	TRANSMITTED TO GOVERNOR		
4/19	SIGNED BY GOVERNOR CHAPTER NUMBER 407 EFFECTIVE DATE: 10/01/93		

HB 497 INTRODUCED BY SMITH

CLARIFY DEPARTMENT OF FAMILY SERVICES FINANCIAL RESPONSIBILITY FOR PROTECTIVE SERVICES COSTS

BY REQUEST OF DEPARTMENT OF FAMILY SERVICES

2/05	INTRODUCED
2/05	REFERRED TO HUMAN SERVICES & AGING
2/05	FIRST READING
2/05	FISCAL NOTE REQUESTED
2/10	HEARING
2/11	FISCAL NOTE RECEIVED
2/11	FISCAL NOTE PRINTED
2/25	MISSED TRANSMITTAL DEADLINE

HB 498 INTRODUCED BY ELLIS, ET AL.

ALLOW PRIVATE WILDLIFE ENHANCEMENT AND MANAGEMENT AREAS

2/05	INTRODUCED
2/05	REFERRED TO FISH & GAME
2/05	FIRST READING

HOUSE BILL NO. 496

INTRODUCED BY WYATT, BARTLETT, TOOLE, CRIPPEN, WANZENRIED, WINSLOW, J. RICE, B. BROWN, DOHERTY, DAVIS
BY REQUEST OF THE COMMISSION FOR HUMAN RIGHTS

IN THE HOUSE

FEBRUARY 5, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 15, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
	POSTED ON CONSENT CALENDAR.
FEBRUARY 16, 1993	CONSENT CALENDAR, QUESTIONS AND ANSWERS.
	ENGROSSING REPORT.
FEBRUARY 17, 1993	THIRD READING, PASSED. AYES, 99; NOES, 0.
FEBRUARY 18, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 15, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 16, 1993	SECOND READING, CONCURRED IN.
MARCH 17, 1993	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 1, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 2, 1993	THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

LC 0327/01

HOUSE BILL NO. 496

INTRODUCED BY Wyatt Bartlett Tool Cooper R. Brown Bruski K. Window Rice Grady

BY REQUEST OF THE COMMISSION FOR HUMAN RIGHTS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA HUMAN RIGHTS LAWS; REPLACING THE TERMS "HANDICAP" AND "HANDICAPPED PERSON" WITH THE TERMS "DISABILITY" AND "PERSON WITH A DISABILITY"; PROVIDING OTHER CHANGES IN TERMINOLOGY; AND AMENDING SECTIONS 49-1-102, 49-2-101, 49-2-303, 49-2-304, 49-2-305, 49-2-306, 49-2-307, 49-2-308, 49-2-403, 49-2-602, 49-3-101, 49-3-103, 49-3-201, 49-3-202, 49-3-203, 49-3-204, 49-3-205, 49-3-206, 49-3-207, 49-4-101, 49-4-202, 49-4-211, 49-4-212, 49-4-301, 49-4-302, 49-4-304, AND 49-4-305, MCA."

WHEREAS, many individuals with disabilities and many organizations representing individuals with disabilities object to the use of the terms "handicap" and "handicapped person"; and

WHEREAS, as with racial and ethnic terms, the choice of words used to describe a person with a disability is overlaid with stereotypes and emotional connotations; and

WHEREAS, it is important to use terminology most in line with the sensibilities of most persons with disabilities; and

WHEREAS, the current accepted terminology is "disability" rather than "handicap" and "person with a disability" rather than "handicapped person"; and

WHEREAS, the federal Americans with Disabilities Act of 1990 uses the terms "disability" and "individual with a disability" rather than the terms "handicap" or "handicapped person"; and

WHEREAS, making the state human rights laws consistent with the Americans with Disabilities Act will eliminate some confusion between state and federal laws.

THEREFORE, it is appropriate for the Legislature to revise the state human rights laws to replace the terms "handicap" and "handicapped person" with the terms "disability" and "person with a disability".

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 49-1-102, MCA, is amended to read:

"**49-1-102. Freedom from discrimination.** (1) The right to be free from discrimination because of race, creed, religion, color, sex, physical or mental ~~handicap~~ disability, age, or national origin is recognized as and declared to be a civil right. This right must include but not be limited to:

(a) the right to obtain and hold employment without discrimination; and

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(b) the right to the full enjoyment of any of the accommodation facilities or privileges of any place of public resort, accommodation, assemblage, or amusement.

(2) This section does not prevent the nonarbitrary consideration in adoption proceedings of relevant information concerning the factors listed in subsection (1). Consideration of religious factors by a licensed child-placing agency that is affiliated with a particular religious faith is not arbitrary consideration of religion within the meaning of this section."

Section 2. Section 49-2-101, MCA, is amended to read:

"49-2-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Age" means number of years since birth. It does not mean level of maturity or ability to handle responsibility. These latter criteria may represent legitimate considerations as reasonable grounds for discrimination without reference to age.

(2) "Commission" means the commission for human rights provided for in 2-15-1706.

(3) "Credit" means the right granted by a creditor to a person to defer payment of a debt, to incur debt and defer its payment, or to purchase property or services and defer payment therefor. It includes without limitation the right

to incur and defer debt which is secured by residential real property.

(4) "Credit transaction" means any invitation to apply for credit, application for credit, extension of credit, or credit sale.

(5) "Creditor" means a person who, regularly or as a part of ~~his~~ the person's business, arranges for the extension of credit for which the payment of a financial charge or interest is required, whether in connection with loans, sale of property or services, or otherwise.

(6) "Educational institution" means a public or private institution and includes an academy; college; elementary or secondary school; extension course; kindergarten; nursery; school system; university; business, nursing, professional, secretarial, technical, or vocational school; or agent of an educational institution.

(7) "Employee" means ~~any~~ an individual employed by an employer.

(8) "Employer" means an employer of one or more persons but does not include a fraternal, charitable, or religious association or corporation if the association or corporation is not organized either for private profit or to provide accommodations or services that are available on a nonmembership basis.

(9) "Employment agency" means a person undertaking to

procure employees or opportunities to work.

(10) "Financial institution" means a commercial bank, trust company, savings bank, finance company, savings and loan association, credit union, investment company, or insurance company.

(11) "Housing accommodation" means a building or portion of a building, whether constructed or to be constructed, which is or will be used as the sleeping quarters of its occupants.

(12) "Labor organization" means an organization or an agent of an organization organized for the purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances or terms or conditions of employment, or of other mutual aid and protection of employees.

(13) "National origin" means ancestry.

(14) "Person" means one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated employees' associations, employers, employment agencies, or labor organizations.

(15) (a) "Physical or mental ~~handicap~~ disability" means:

(i) a physical or mental impairment that substantially limits one or more of a person's major life activities;

(ii) a record of such an impairment; or

(iii) a condition regarded as such an impairment.

(b) Discrimination based on, because of, on the basis of, or on the grounds of physical or mental ~~handicap~~ disability includes the failure to make reasonable accommodations that are required by an otherwise qualified person who has a physical or mental ~~handicap~~ disability. ~~Any~~ An accommodation that would require an undue hardship or that would endanger the health or safety of any person is not a reasonable accommodation.

(16) (a) "Public accommodation" means a place which caters or offers its services, goods, or facilities to the general public subject only to the conditions and limitations established by law and applicable to all persons ~~alike~~. It includes without limitation a public inn, restaurant, eating house, hotel, roadhouse, place where food or alcoholic beverages or malt liquors are sold for consumption, motel, soda fountain, soft drink parlor, tavern, nightclub, trailer park, resort, campground, barbershop, beauty parlor, bathroom, resthouse, theater, swimming pool, skating rink, golf course, cafe, ice cream parlor, transportation company, or hospital and all other public amusement and business establishments.

(b) Public accommodation does not include an institution, club, or place of accommodation that proves that it is by its nature distinctly private. An institution,

club, or place of accommodation may not be considered by its nature distinctly private if it has more than 100 members, provides regular meal service, and regularly receives payment for dues, fees, use of space, facilities, services, meals, or beverages, directly or indirectly, from or on behalf of nonmembers, for the furtherance of trade or business. For the purposes of this subsection (16), any lodge of a recognized national fraternal organization is considered by its nature distinctly private.

(17) "Staff" or "commission staff" means the staff of the commission for human rights."

Section 3. Section 49-2-303, MCA, is amended to read:

"49-2-303. Discrimination in employment. (1) It is an unlawful discriminatory practice for:

(a) an employer to refuse employment to a person, to bar ~~him~~ a person from employment, or to discriminate against ~~him~~ a person in compensation or in a term, condition, or privilege of employment because of ~~his~~ race, creed, religion, color, or national origin or because of ~~his~~ age, physical or mental ~~handicap~~ disability, marital status, or sex when the reasonable demands of the position do not require an age, physical or mental ~~handicap~~ disability, marital status, or sex distinction;

(b) a labor organization or joint labor management committee controlling apprenticeship to exclude or expel any

person from its membership or from an apprenticeship or training program or to discriminate in any way against a member of or an applicant to the labor organization or an employer or employee because of race, creed, religion, color, or national origin or because of ~~his~~ age, physical or mental ~~handicap~~ disability, marital status, or sex when the reasonable demands of the program do not require an age, physical or mental ~~handicap~~ disability, marital status, or sex distinction;

(c) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication or to use an employment application which expresses, directly or indirectly, a limitation, specification, or discrimination as to sex, marital status, age, physical or mental ~~handicap~~ disability, race, creed, religion, color, or national origin or an intent to make the limitation, unless based upon a bona fide occupational qualification;

(d) an employment agency to fail or refuse to refer for employment, to classify, or otherwise to discriminate against any individual because of sex, marital status, age, physical or mental ~~handicap~~ disability, race, creed, religion, color, or national origin, unless based upon a bona fide occupational qualification.

(2) The exceptions permitted in subsection (1) based on

bona fide occupational qualifications ~~shall~~ must be strictly construed.

(3) Compliance with 2-2-302 and 2-2-303, which prohibit nepotism in public agencies, may not be construed as a violation of this section.

(4) The application of a hiring preference as provided for in 2-18-111 and 18-1-110 may not be construed to be a violation of this section."

Section 4. Section 49-2-304, MCA, is amended to read:

"**49-2-304. Discrimination in public accommodations.** (1) Except when the distinction is based on reasonable grounds, it is an unlawful discriminatory practice for the owner, lessee, manager, agent, or employee of a public accommodation:

(a) to refuse, withhold from, or deny to a person any of its services, goods, facilities, advantages, or privileges because of sex, marital status, race, age, physical or mental ~~handicap~~ disability, creed, religion, color, or national origin;

(b) to publish, circulate, issue, display, post, or mail a written or printed communication, notice, or advertisement which states or implies that any of the services, goods, facilities, advantages, or privileges of the public accommodation will be refused, withheld from, or denied to a person of a certain race, creed, religion, sex,

marital status, age, physical or mental ~~handicap~~ disability, color, or national origin.

(2) Except when the distinction is based on reasonable grounds, it is an unlawful discriminatory practice for a licensee under Title 16, chapter 4, to exclude from its membership or from its services, goods, facilities, advantages, privileges, or accommodations any individual on the grounds of race, color, religion, creed, sex, marital status, age, physical or mental ~~handicap~~ disability, or national origin. This subsection does not apply to any lodge of a recognized national fraternal organization.

(3) Nothing in this section prohibits public accommodations from giving or providing special benefits, incentives, discounts, or promotions for the benefit of individuals based on age."

Section 5. Section 49-2-305, MCA, is amended to read:

"**49-2-305. Discrimination in housing -- exemptions.** (1) It is an unlawful discriminatory practice for the owner, lessee, or manager having the right to sell, lease, or rent a housing accommodation or improved or unimproved property or for any other person:

(a) to refuse to sell, lease, or rent the housing accommodation or property to a person because of sex, marital status, race, creed, religion, color, age, familial status, physical or mental ~~handicap~~ disability, or national

origin;

(b) to discriminate against a person because of sex, marital status, race, creed, religion, age, familial status, physical or mental ~~handicap~~ disability, color, or national origin in a term, condition, or privilege relating to the use, sale, lease, or rental of the housing accommodation or property;

(c) to make an inquiry of the sex, marital status, race, creed, religion, age, familial status, physical or mental ~~handicap~~ disability, color, or national origin of a person seeking to buy, lease, or rent a housing accommodation or property for the purpose of discriminating on the basis of sex, marital status, race, creed, religion, age, familial status, physical or mental ~~handicap~~ disability, color, or national origin;

(d) to refuse to negotiate for a sale or to otherwise make unavailable or deny a housing accommodation or property because of sex, marital status, race, creed, religion, age, familial status, physical or mental ~~handicap~~ disability, color, or national origin;

(e) to represent to a person that a housing accommodation or property is not available for inspection, sale, or rental because of that person's sex, marital status, race, creed, religion, age, familial status, physical or mental ~~handicap~~ disability, color, or national

origin when the housing accommodation or property is in fact available; or

(f) for profit, to induce or attempt to induce a person to sell or rent a housing accommodation or property by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular sex, marital status, race, creed, religion, age, familial status, physical or mental ~~handicap~~ disability, color, or national origin.

(2) The rental of sleeping rooms in a private residence designed for single-family occupancy in which the owner also resides is excluded from the provisions of subsection (1), provided that the owner rents no more than three sleeping rooms within the residence.

(3) It is an unlawful discriminatory practice to make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement that indicates any preference, limitation, or discrimination that is prohibited by subsection (1) or any intention to make or have such a prohibited preference, limitation, or discrimination.

(4) It is an unlawful discriminatory practice for a person to discriminate because of a physical or mental ~~handicap~~ disability of a buyer, lessee, or renter; a person residing in or intending to reside in or on the housing accommodation or property after it is sold, leased, rented,

or made available; or any person associated with that buyer, lessee, or renter:

(a) in the sale, rental, or availability of the housing accommodation or property;

(b) in the terms, conditions, or privileges of a sale or rental of the housing accommodation or property; or

(c) in the provision of services or facilities in connection with the housing accommodation or property.

(5) For purposes of subsections (1) and (4), discrimination because of physical or mental ~~handicap~~ disability includes:

(a) refusal to permit, at the expense of the ~~handicapped~~ person with a disability, reasonable modifications of existing premises occupied or to be occupied by the ~~handicapped~~ person with a disability if the modifications may be necessary to allow the person full enjoyment of the premises, except that in the case of a lease or rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the lessor's or renter's agreement to restore the interior of the premises to the condition that existed before the modification, except for reasonable wear and tear;

(b) refusal to make reasonable accommodations in rules, policies, practices, or services when the accommodations may be necessary to allow the person equal opportunity to use

and enjoy a housing accommodation or property; or

(c) (i) except as provided in subsection (5)(c)(ii), in connection with the design and construction of a covered multifamily housing accommodation, a failure to design and construct the housing accommodation in a manner that:

(A) provides at least one accessible building entrance on an accessible route;

(B) makes the public use and common use portions of the housing accommodation readily accessible to and usable by ~~handicapped persons~~ a person with a disability;

(C) provides that all doors designed to allow passage into and within all premises within the housing accommodation are sufficiently wide to allow passage by ~~handicapped persons~~ a person with a disability in ~~wheelchairs~~ a wheelchair; and

(D) ensures that all premises within the housing accommodation contain the following features of adaptive design:

(I) an accessible route into and through the housing accommodation;

(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(III) reinforcements in bathroom walls to allow later installation of grab bars; and

(IV) usable kitchens and bathrooms that allow an

individual in a wheelchair to maneuver about the space;

(ii) a covered multifamily housing accommodation that does not have at least one building entrance on an accessible route because it is impractical to do so due to the terrain or unusual characteristics of the site is not required to comply with the requirements of subsection (5)(c)(i).

(6) For purposes of subsection (5), the term "covered multifamily housing accommodation" means:

(a) a building consisting of four or more dwelling units if the building has one or more elevators; and

(b) ground floor units in a building consisting of four or more dwelling units.

(7) (a) It is an unlawful discriminatory practice for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate because of sex, race, creed, religion, age, familial status, physical or mental ~~handicap~~ disability, color, or national origin against a person in making available a transaction or in the terms or conditions of a transaction.

(b) For purposes of this subsection (7), the term "residential real estate-related transaction" means any of the following:

(i) the making or purchasing of loans or providing

other financial assistance:

(A) for purchasing, constructing, improving, repairing, or maintaining a housing accommodation or property; or

(B) secured by residential real estate; or

(ii) the selling, brokering, or appraising of residential real property.

(8) It is an unlawful discriminatory practice to deny a person access to or membership or participation in a multiple-listing service; real estate brokers' organization; or other service, organization, or facility relating to the business of selling, leasing, or renting housing accommodations or property or to discriminate against the person in the terms or conditions of access, membership, or participation because of sex, race, creed, religion, age, familial status, physical or mental ~~handicap~~ disability, color, or national origin.

(9) It is an unlawful discriminatory practice to coerce, intimidate, threaten, or interfere with a person in the exercise or enjoyment of or because of ~~his~~ the person having exercised or enjoyed or having aided or encouraged any other person in the exercise or enjoyment of a right granted or protected by this section.

(10) The prohibitions of this section against discrimination because of age and familial status do not extend to housing for older persons. "Housing for older

persons" means housing:

(a) provided under any state or federal program specifically designed and operated to assist elderly persons;

(b) intended for, and solely occupied by, persons 62 years of age or older; or

(c) intended and operated for occupancy by at least one person 55 years of age or older per unit in accordance with the provisions of 42 U.S.C. 3607(b)(2)(C) and (3) and 24 C.F.R. 100.304, as those sections read on October 1, 1989.

(11) The prohibitions of subsection (1) against discrimination because of age and familial status do not extend to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than two families living independently of each other, if the owner actually maintains and occupies one of the living quarters as ~~his~~ the owner's residence.

(12) For purposes of this section, "familial status" means having a child or children who live or will live with a person. A distinction based on familial status includes one that is based on the age of a child or children who live or will live with a person."

Section 6. Section 49-2-306, MCA, is amended to read:

"49-2-306. Discrimination in financing and credit transactions. (1) It is an unlawful discriminatory practice

for a financial institution, upon receiving an application for financial assistance, to permit an official or employee, during the execution of ~~his~~ that person's duties, to discriminate against the applicant because of sex, marital status, race, creed, religion, age, physical or mental ~~handicap~~ disability, color, or national origin in a term, condition, or privilege relating to the obtainment or use of the institution's financial assistance, unless based on reasonable grounds.

(2) It is an unlawful discriminatory practice for a creditor to discriminate on the basis of race, color, religion, creed, national origin, age, mental or physical ~~handicap~~ disability, sex, or marital status against any person in any credit transaction ~~which~~ that is subject to the jurisdiction of any state or federal court of record."

Section 7. Section 49-2-307, MCA, is amended to read:

"49-2-307. Discrimination in education. It is an unlawful discriminatory practice for an educational institution:

(1) to exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, or privileges of the institution because of race, creed, religion, sex, marital status, color, age, physical ~~handicap~~ disability, or national origin or because of mental ~~handicap~~

disability, unless based on reasonable grounds;

(2) to make or use a written or oral inquiry or form of application for admission that elicits or attempts to elicit information or to make or keep a record concerning the race, color, sex, marital status, age, creed, religion, physical or mental ~~handicap~~ disability, or national origin of an applicant for admission, except as permitted by regulations of the commission;

(3) to print, publish, or cause to be printed or published a catalog or other notice or advertisement indicating a limitation, specification, or discrimination based on the race, color, creed, religion, age, physical or mental ~~handicap~~ disability, sex, marital status, or national origin of an applicant for admission; or

(4) to announce or follow a policy of denial or limitation of educational opportunities of a group or its members, through a quota or otherwise, because of race, color, sex, marital status, age, creed, religion, physical or mental ~~handicap~~ disability, or national origin."

Section 8. Section 49-2-308, MCA, is amended to read:

"49-2-308. Discrimination by the state. (1) It is an unlawful discriminatory practice for the state or any of its political subdivisions:

(a) to refuse, withhold from, or deny to a person any local, state, or federal funds, services, goods, facilities,

advantages, or privileges because of race, creed, religion, sex, marital status, color, age, physical or mental ~~handicap~~ disability, or national origin, unless based on reasonable grounds;

(b) to publish, circulate, issue, display, post, or mail a written or printed communication, notice, or advertisement which states or implies that any local, state, or federal funds, services, goods, facilities, advantages, or privileges of the office or agency will be refused, withheld from, or denied to a person of a certain race, creed, religion, sex, marital status, color, age, physical or mental ~~handicap~~ disability, or national origin or that the patronage of a person of a particular race, creed, religion, sex, marital status, color, age, or national origin or possessing a physical or mental ~~handicap~~ disability is unwelcome or not desired or solicited, unless based on reasonable grounds;

(c) to refuse employment to a person, to bar ~~him~~ a person from employment, or to discriminate against ~~him~~ a person in compensation or in a term, condition, or privilege of employment because of ~~his~~ that person's political beliefs. However, this prohibition does not apply to policymaking positions on the immediate staff of an elected officer of the executive branch provided for in Article VI, section 1, of the Montana constitution, to the appointments

by the governor of a director of a principal department provided for in Article VI, section 7, of the Montana constitution, or to the immediate staff of the majority and minority leadership of the Montana legislature.

(2) This section does not prevent the nonarbitrary consideration in adoption proceedings of relevant information concerning the factors listed in subsection (1)."

Section 9. Section 49-2-403, MCA, is amended to read:

"49-2-403. Specific limits on justification. (1) Except as permitted in 49-2-303(3) and (4) and 49-3-201(5), sex, marital status, age, physical or mental ~~handicap~~ disability, race, creed, religion, color, or national origin may not comprise justification for discrimination except for the legally demonstrable purpose of correcting a previous discriminatory practice.

(2) Age or mental ~~handicap~~ disability may represent a legitimate discriminatory criterion in credit transactions only as it relates to a person's capacity to make or be bound by contracts or other obligations."

Section 10. Section 49-2-602, MCA, is amended to read:

"49-2-602. Intimidation or interference in right to be free from housing discrimination -- penalties. (1) It is unlawful for a person, whether or not acting under color of law, by force or threat of force to purposefully or

knowingly injure, intimidate, or interfere with or attempt to injure, intimidate, or interfere with:

(a) a person because of sex, race, creed, religion, age, familial status, physical or mental ~~handicap~~ disability, color, or national origin and because the person is or has been:

(i) selling, purchasing, renting, leasing, financing, or occupying or contracting or negotiating for the sale, purchase, lease, rental, financing, or occupation of any housing accommodation or property; or

(ii) applying for or participating in any service, organization, or facility relating to the business of selling, leasing, or renting housing accommodations or property;

(b) a person because ~~he~~ that person is or has been:

(i) participating, without discrimination because of sex, race, creed, religion, age, familial status, physical or mental ~~handicap~~ disability, color, or national origin in any of the activities, services, organizations, or facilities described in this subsection (1); or

(ii) affording another person or class of persons opportunity or protection to participate in those activities, services, organizations, or facilities; or

(c) a citizen because ~~he~~ the citizen is or has been, or in order to discourage ~~him~~ that citizen or any other citizen

from, lawfully aiding or encouraging other persons to participate in any of the activities, services, organizations, or facilities described in this subsection (1) or because he the citizen is or has been lawfully participating in speech or peaceful assembly opposing any denial of the opportunity to participate.

(2) A person who violates a provision of subsection (1):

(a) shall be fined not more than $1,000 or imprisoned for not more than 1 year, or both;

(b) if bodily injury results, shall be fined not more than $10,000 or imprisoned for not more than 10 years, or both; or

(c) if death results, shall be subject to imprisonment for any term of years or for life."

Section 11. Section 49-3-101, MCA, is amended to read:

"49-3-101. Definitions. As used in this chapter, the following definitions apply:

(1) "Age" means number of years since birth. It does not mean level of maturity or ability to handle responsibility, which may represent legitimate considerations as reasonable grounds for discrimination without reference to age.

(2) "Commission" means the commission for human rights provided for in 2-15-1706.

(3) (a) "Physical or mental handicap disability" means:

(i) a physical or mental impairment that substantially limits one or more of a person's major life activities;

(ii) a record of such an impairment; or

(iii) a condition regarded as such an impairment.

(b) Discrimination based upon, because of, on the basis of, on the grounds of, or with regard to physical or mental handicap disability includes the failure to make reasonable accommodations that are required by an otherwise qualified person who has a physical or mental handicap disability. Any accommodation that would require an undue hardship or that would endanger the health or safety of any person is not a reasonable accommodation.

(4) "State or local governmental agency" means:

(a) any branch, department, office, board, bureau, commission, agency, university unit, college, or other instrumentality of state government; or

(b) a county, city, town, school district, or other unit of local government and any instrumentality of local government.

(5) "Qualifications" means such qualifications as that are genuinely related to competent performance of the particular occupational task."

Section 12. Section 49-3-103, MCA, is amended to read:

"49-3-103. Permitted distinctions. (1) Nothing in this

chapter prohibits any public or private employer:

(a) from enforcing a differentiation based on marital status, age, or physical or mental ~~handicap~~ disability when based on a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or where the differentiation is based on reasonable factors other than age;

(b) from observing the terms of a bona fide seniority system or any bona fide employee benefit plan, such as a retirement, pension, or insurance plan, that is not a subterfuge to evade the purposes of this chapter, except that an employee benefit plan may not excuse the failure to hire any individual; or

(c) from discharging or otherwise disciplining an individual for good cause.

(2) The application of an employment preference as provided for in 2-18-111, 10-2-402, 18-1-110, and Title 39, chapter 29 or 30, by a public employer as defined in 39-29-101 and 39-30-103 may not be construed to constitute a violation of this chapter."

Section 13. Section 49-3-201, MCA, is amended to read:

"49-3-201. ~~Employment~~ of state and local government personnel. (1) State and local government officials and supervisory personnel shall recruit, appoint, assign, train, evaluate, and promote personnel on the basis of merit and

qualifications without regard to race, color, religion, creed, political ideas, sex, age, marital status, physical or mental ~~handicap~~ disability, or national origin.

(2) All state and local governmental agencies shall:

(a) promulgate written directives to carry out this policy and to guarantee equal employment opportunities at all levels of state and local government;

(b) regularly review their personnel practices to assure compliance; and

(c) conduct continuing orientation and training programs with emphasis on human relations and fair employment practices.

(3) The department of administration shall ~~insure~~ ensure that the entire examination process, including appraisal of qualifications, is free from bias.

(4) Appointing authorities shall exercise care to ~~insure~~ ensure utilization of minority group persons.

(5) Compliance with 2-2-302 and 2-2-303, which prohibit nepotism in public agencies, may not be construed as a violation of this section."

Section 14. Section 49-3-202, MCA, is amended to read:

"49-3-202. ~~Employment~~ referrals and placement services. (1) All state and local governmental agencies, including educational institutions, ~~which~~ that provide employment referrals or placement services to public or private

employers shall accept job orders on a fair practice basis. A job request indicating an intention to exclude a person because of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental ~~handicap~~ disability, or national origin ~~shall~~ must be rejected.

(2) All state and local governmental agencies shall cooperate in programs developed by the commission for human rights for the purpose of broadening the base of job recruitment and shall further cooperate with employers and unions providing ~~such~~ the programs.

(3) The department of labor and industry shall cooperate with the commission for human rights in encouraging and enforcing compliance by employers and labor unions with the policy of this chapter and promotion of equal employment opportunities."

Section 15. Section 49-3-203, MCA, is amended to read:

"49-3-203. Educational, counseling, and training programs. All educational, counseling, and vocational guidance programs and all apprenticeship and on-the-job training programs of state and local governmental agencies or in which state and local governmental agencies participate must be open to all persons, who must be accepted on the basis of merit and qualifications without regard to race, color, religion, creed, political ideas, sex, age, marital status, physical or mental ~~handicap~~ disability, or national origin. ~~Such~~ The programs must be conducted to encourage the full development of the interests, aptitudes, skills, and capacities of all students and trainees, with special attention to the problems of persons who are culturally deprived, or who are educationally ~~handicapped~~, or economically disadvantaged persons. Expansion of training opportunities under these programs must be encouraged to involve larger numbers of participants from those segments of the labor force in which the need for upgrading levels of skill is greatest."

Section 16. Section 49-3-204, MCA, is amended to read:

"49-3-204. Licensing. (1) A state or local governmental agency may not grant, deny, or revoke the license or charter of a person on the grounds of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental ~~handicap~~ disability, or national origin. Each state or local governmental agency shall take such appropriate action in the exercise of its licensing or regulatory power as will assure equal treatment of all persons, eliminate discrimination, and enforce compliance with the policy of this chapter. This subsection does not prevent the department of family services from licensing a child-placing agency that gives nonarbitrary consideration in adoption proceedings to relevant information concerning the factors listed in this subsection. Consideration of religious

factors by a licensed child-placing agency that is affiliated with a particular religious faith is not arbitrary consideration of religion within the meaning of this section.

(2) The state may not issue or renew a license under Title 16, chapter 4, to an applicant or licensee that excludes from its membership or from its goods, services, facilities, privileges, or advantages any individual on the grounds of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental ~~handicap~~ disability, or national origin. This subsection does not apply to any lodge of a recognized national fraternal organization."

Section 17. Section 49-3-205, MCA, is amended to read:

"49-3-205. Governmental services. (1) All services of every state or local governmental agency must be performed without discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental ~~handicap~~ disability, or national origin.

(2) ~~No~~ A state or local facility may not be used in the furtherance of any discriminatory practice, nor may a state or local governmental agency become a party to an agreement, arrangement, or plan ~~which~~ that has the effect of sanctioning discriminatory practices.

(3) Each state or local governmental agency shall

analyze all of its operations to ascertain possible instances of noncompliance with the policy of this chapter and shall initiate comprehensive programs to remedy any defect found to exist.

(4) This section does not prevent the nonarbitrary consideration in adoption proceedings of relevant information concerning the factors listed in this section."

Section 18. Section 49-3-206, MCA, is amended to read:

"49-3-206. Distribution of governmental funds. Race, color, religion, creed, political ideas, sex, age, marital status, physical or mental ~~handicap~~ disability, or national origin may not be considered as limiting factors with regard to applicants' qualifications for benefits authorized by law in state or locally administered programs involving the distribution of funds; nor may state agencies provide grants, loans, or other financial assistance to public agencies, private institutions, or organizations which engage in discriminatory practices."

Section 19. Section 49-3-207, MCA, is amended to read:

"49-3-207. Nondiscrimination provision in all public contracts. Every state or local contract or subcontract for construction of public buildings or for other public work or for goods or services ~~shall~~ must contain a provision that all hiring must be on the basis of merit and qualifications and a provision that there may not be no discrimination on

the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental ~~handicap~~ disability, or national origin by the persons performing the contract."

Section 20. Section 49-4-101, MCA, is amended to read:

"49-4-101. Discrimination prohibited. It is unlawful to discriminate, in hiring or employment, against a person because of the person's physical ~~handicap~~ disability ~~of such person~~. There is no discrimination where when the nature or extent of the ~~handicap~~ disability reasonably precludes the performance of the particular employment or where when the particular employment may subject the ~~handicapped or his~~ person with a disability or that person's fellow employees to physical harm."

Section 21. Section 49-4-202, MCA, is amended to read:

"49-4-202. Policy of the state. It is the policy of the state to encourage and enable the blind, the visually ~~handicapped~~ impaired, the deaf, and the otherwise physically disabled to participate fully in the social and economic life of the state and to engage in remunerative employment. The blind, the visually ~~handicapped~~ impaired, the deaf, and the otherwise physically disabled ~~shall~~ must be employed in the state service, the service of the political subdivisions of the state, the public schools, and all other employment ~~supported in whole or in part by public funds on the same~~

terms and conditions as the able-bodied, unless it is shown that the particular disability prevents the performance of the work involved."

Section 22. Section 49-4-211, MCA, is amended to read:

"49-4-211. Right to use public places and accommodations. (1) The blind, the visually ~~handicapped~~ impaired, and the deaf have the same right as the able-bodied to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places.

(2) The blind, the visually ~~handicapped~~ impaired, and the deaf are entitled to full and equal accommodations, advantages, facilities, and privileges of all common carriers, as defined in 69-11-101, and all public accommodations, as defined in 49-2-101, subject only to the conditions and limitations established by law and applicable alike to all persons."

Section 23. Section 49-4-212, MCA, is amended to read:

"49-4-212. Access to housing accommodations. Blind, visually ~~handicapped~~ impaired, and deaf persons are entitled to as full and equal access as other members of the general public to any housing accommodation offered for compensation in this state."

Section 24. Section 49-4-301, MCA, is amended to read:

"49-4-301. Who eligible for special parking permit. (1)

The department of justice shall issue a special parking permit to a person who:

(a) holds a valid Montana driver's license and owns a motor vehicle, other than a commercial vehicle, and has a permanent physical ~~handicap~~ disability that impairs ~~his~~ mobility when not in a motor vehicle;

(b) regardless of whether ~~he~~ the person holds a driver's license or owns a motor vehicle, has a permanent physical ~~handicap~~ disability that impairs ~~his~~ driving ability and impairs ~~his~~ mobility when not in a motor vehicle to such an extent that ~~he~~ the person needs to be driven by another person to a destination; or

(c) has a temporary physical ~~handicap~~ disability that impairs ~~his~~ driving ability or ~~his~~ mobility when not in a motor vehicle to such an extent that ~~he~~ the person needs to be driven by another person to a destination.

(2) ~~No--one~~ An applicant may not receive more than one permit."

Section 25. Section 49-4-302, MCA, is amended to read:

"~~49-4-302.~~ Privileges of permitholder -- privilege for disabled veteran -- exemptions from time limits -- requirements for special parking spaces. (1) The parking permit issued under this part, when displayed, entitles a person to park a motor vehicle in a special parking ~~spaces~~ space reserved for ~~handicapped--persons~~ a person with a

disability, whether on public property or on private property available for public use.

(2) ~~No~~ A vehicle other than one lawfully displaying a parking permit issued under this part or one displaying a distinguishing ~~handicapped-person's~~ license plate or placard for a person with a disability that was issued by a foreign jurisdiction conferring the same parking privileges as conferred in subsection (1) and conveying a ~~handicapped~~ person with a disability or one displaying a specially inscribed license plate issued under 61-3-332(10)(c) and conveying a 100% disabled veteran may not be parked in a parking space on public or private property that is clearly identified by an official sign as being reserved for use by ~~handicapped-persons~~ a person with a disability.

(3) The governing body of a city, town, or county may exempt vehicles lawfully displaying parking permits issued under this part and vehicles lawfully displaying specially inscribed license plates issued under 61-3-332(10)(c) and parked in public places along public streets from any time limitation imposed upon parking ~~in-such-area~~ except in areas where:

(a) stopping, standing, or parking of all vehicles is prohibited;

(b) only special vehicles may be parked; or

(c) parking is not allowed during specific periods of

the day in order to accommodate heavy traffic.

(4) In accordance with subsection (2), the governing body of a city, town, or county or appropriate state agency may impose all, but not less than all, of the following requirements with respect to any special parking space constructed after September 30, 1985, and reserved for ~~handicapped--persons~~ a person with a disability or ~~permitholders~~ a permitholder on ways of this state open to the public as defined in 61-8-101:

(a) The space must be located on a smooth, level surface as near as practicable to building entrances or walkways that have curb cuts and appropriately designed ramps and access lanes to accommodate wheelchairs.

(b) If parallel to curbside, the parking space must be separated from an adjacent space, either in the front or the rear, by at least 5 feet of striped no-parking area.

(c) If at an angle to curbside, the parking space must be at least 8 feet wide and free of obstruction if located at the end of a line of angle parking spaces, and each other angle parking space designated for ~~handicapped--persons~~ a person with a disability must be at least 13 feet wide.

(d) A parking space reserved for ~~handicapped-persons~~ a person with a disability must be designated by a sign showing the international symbol of accessibility and indicating that a permit is required. The sign must be

attached to a wall or post in such a way that it is not obscured by a vehicle parked in the space."

Section 26. Section 49-4-304, MCA, is amended to read:

"49-4-304. Special license plate or card to be provided and displayed -- additional cards allowed for owners of more than one vehicle. (1) The department of justice shall provide a special license plate under 61-3-332(10)(f) or a card to be displayed on or in a motor vehicle to indicate a parking privilege granted under this part. The special license plate must be affixed to the vehicle according to 61-3-301, or the card must be prominently displayed in the windshield of a vehicle when the parking privilege is being used by the ~~handicapped~~ person with a disability in a vehicle other than the one to which ~~his~~ a special license plate is affixed.

(2) Subject to the provisions of 49-4-301 through 49-4-305, a person who is eligible to receive a special parking permit and who owns more than one motor vehicle may request and the department of justice shall provide ~~to him~~ additional cards described in subsection (1) to equal the number of motor vehicles, other than commercial vehicles, owned by the person.

(3) Upon application under 49-4-303, a ~~handicapped~~ person with a disability who does not hold a driver's license or does not own a vehicle may receive a card

described in subsection (1) to be displayed in a vehicle in which the ~~handicapped~~ person with a disability is being conveyed when the parking privilege is being used.

(4) The card must bear a representation of a wheelchair as the symbol of a ~~handicapped~~ person with a disability."

Section 27. Section 49-4-305, MCA, is amended to read:

"**49-4-305. Expiration of permit.** A permit expires on:

(1) the death of the permittee; or

(2) certification by a physician that the permittee's physical ~~handicap~~ disability impairing ~~his~~ mobility no longer exists."

-End-

separation of the functions. Afterwards, the Uniform Commissioners reviewed the draft to make sure it used standardized language between all the states. **REP. TOOLE** has further cleanup amendments. The major change is the separation of the administration system from the court system (two parallel systems).

Wilbur Johnson, Johnson Advocacy, Great Falls, presented written testimony. **EXHIBIT 16**

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. DAVE BROWN said most uniform laws are designed to be the same in all states. He asked **REP. TOOLE** where this one came from and whether it is exactly like the laws in effect and proposed across the country. **REP. TOOLE** said that, with the amendments, this draft is approved as being a uniform law. He conveyed that the drafting of HB 228 was done by **Greg Petesch, Legal Services Director, Legislative Council.** After that, the first draft was reviewed by the Uniform Act Commissioners. The commissioners wanted to bring the bill back to its original format, and they improved it with the amendments.

REP. BROWN referred to the word "tribunal" on page 7, line 25 and asked if that definition is cast in concrete. **Mr. McCray** explained why tribunal is used in the bill. He said CSES presently has interstate applications that are administratively processed.

Closing by Sponsor: None

HEARING ON HB 496

Opening Statement by Sponsor:

REP. DIANA WYATT, House District 37, Great Falls, said there are no real substantive changes in this bill. The only substantive change is replacing the term "handicapped person" to "person with a disability."

Proponents' Testimony:

David M. Rusoff, Attorney, Human Rights Commission, presented written testimony. **EXHIBIT 17**

Opponents' Testimony: None

Questions From Committee Members and Responses: None.

Closing by Sponsor: None.

HEARING ON HB 499

Opening Statement by Sponsor:

REP. JOHN COBB, House District 42, Augusta, explained that HB 499 states the Supreme Court shall appoint members of the Montana Bar as an examining board to assist in conducting the examination of applicants for admission to the bar. The board may not exceed seven members. The court may release, dismiss, or remove any member of the board and appoint other members at any time.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor: None

EXECUTIVE ACTION ON HB 411

Motion: **REP. BROWN MOVED HB 411 DO PASS.**

Discussion:

Janet Jessup, Gambling Control Division Administrator, Department of Justice, offered amendments.

Mark Staples, Attorney, Montana Tavern Association, offered amendments.

Motion/Vote: **REP. BROWN** moved the Department of Justice's amendments. Amendments passed 16-1 with **CHAIRMAN FAGG** voting no, and **REP. RUSSELL** excused from voting. See Standing Committee Report.

Discussion:

REP. BROWN asked **Mr. MacMaster** if Amendment 5 represents **REP. BILL STRIZICH'S** position. **Mr. MacMaster** said he doesn't believe **REP. STRIZICH** feels comfortable using amendment 5. **REP. STRIZICH** preferred to add language to subsection 3a, page 17, line 20 that

Amendment passed 16-2 with **REPS. SAYLES** and **BERGMAN** voting no.

Motion: **REP. BROOKE** moved to strike section 6 from the bill.

Discussion:

REP. BROOKE said section 6 victimizes women/girls who don't have the courage or financial backing for proper medical care. They should be allowed every right through the courts when delivering a pregnancy. **REP. BROOKE** would like to have in law exactly what a women has to do should a baby be delivered disfigured.

Vote: The question has been called on the amendment to strike section 6 from the bill. Amendment fails 7-10.

Motion: **REP. BROWN MOVED HB 346 BE TABLED.**

Discussion:

REP. McCULLOCH said he lost most of his voice in an operation. He said that people don't realize how vulnerable they are until they lose a function they took for granted. **REP. McCULLOCH** further pointed out that if a cap is put on these liabilities, it will increase lawyer's fees. This bill is a contradiction, and he favors the table motion of **REP. BROWN.**

Vote: **HB 346 BE TABLED.** Motion carried 10-8. Those voting for the table motion were **REPS. BROWN, BIRD, BROOKE, GRIMES, McCULLOCH, RUSSELL, TOOLE, WHALEN, WINSLOW** and **WYATT.** Those voting against the table motion were **CHAIRMAN FAGG, REPS. VOGEL, BERGMAN, CLARK, RICE, SAYLES, SMITH** and **TASH.**

EXECUTIVE ACTION ON HB 499

Motion/Vote: **REP. CLARK MOVED HB 499 DO PASS.** Motion carried unanimously 18-0. Bill will be placed on the consent calendar.

EXECUTIVE ACTION ON HB 496

Motion: **REP. WYATT MOVED HB 496 DO PASS.**

Motion/Vote: **REP. WYATT** moved to adopt the **Human Rights** Commission amendments. Motion carried unanimously.

Motion/Vote: **REP. WYATT MOVED HB 496 DO PASS AS AMENDED.** The motion carried 18-0. Bill will be placed on the consent calendar.

EXECUTIVE ACTION ON HB 157

Motion: **REP. VOGEL MOVED HB 157 DO PASS.**

HOUSE OF REPRESENTATIVES

Judiciary COMMITTEE

ROLL CALL DATE Jan 12, 93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird	✓		
Rep. Ellen Bergman	✓		
Rep. Vivian Brooke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell			✓
Rep. Tim Sayles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow	✓		
Rep. Diana Wyatt	✓		

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HOUSE STANDING COMMITTEE REPORT

February 13, 1993
Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 496 (first reading copy -- white) do pass as amended and be placed on consent calendar .

Signed: _____
Russ Fagg, Chair

And, that such amendments read:

1. Page 15, line 17.
Page 16, line 14.
Following: "sex,"
Insert: "marital status,"

-END-

Committee Vote:

HOUSE OF REPRESENTATIVES

Judiciary COMMITTEE

ROLL CALL VOTE

DATE 2-12-93 BILL NO. HB 496 NUMBER 18

MOTION: Motion to pass carried unanimously 18-0

NAME	AYE	NO
Rep. Russ Fagg, Chairman	✓	
Rep. Randy Vogel, Vice-Chair	✓	
Rep. Dave Brown, Vice-Chair	✓	
Rep. Jodi Bird	✓	
Rep. Ellen Bergman	✓	
Rep. Vivian Brooke	✓	
Rep. Bob Clark	✓	
Rep. Duane Grimes	✓	
Rep. Scott McCulloch	✓	
Rep. Jim Rice	✓	
Rep. Angela Russell	✓	
Rep. Tim Sayles	✓	
Rep. Liz Smith	✓	
Rep. Bill Tash	✓	
Rep. Howard Toole	✓	
Rep. Tim Whalen	✓	
Rep. Karyl Winslow	✓	
Rep. Diana Wyatt	✓	

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary COMMITTEE BILL NO HB 496

DATE Feb. 12, 1993 SPONSOR(S) M. Wyatt

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jim Edgcomb	State Personnel Div		
David Rusoff	Human Rights Commin	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

EXHIBIT # 17
DATE 2-2-93
HB 496

TESTIMONY OF DAVID M. RUSOFF
IN SUPPORT OF HB 496

The Human Rights Commission requested HB 496 to amend the Montana human rights laws to achieve some consistency between the language of state law and the Americans with Disabilities Act. Because Legislative Council felt the bill could also be used for some editorial corrections of the language of the human rights laws, we have also proposed to include some minor amendments which are necessitated by the inconsistencies between two bills enacted in 1991. Unfortunately, in the drafting process, only one of the three needed changes to correct the inconsistencies was picked up. I have proposed some amendments to the bill to correct this oversight.

The amendments add the phrase "marital status" to two subsections of § 49-2-305, MCA, which prohibits housing discrimination. During the 1991 session, the legislature enacted two bills affecting this section. One bill added "marital status" to the list of factors for which housing discrimination is prohibited. The other amended § 49-2-305, MCA, more broadly, including a substantial revision of subsection 1(c) and the inclusion of new subsections 7 and 8. In the last minute amendments to coordinate the two bills at the end of the session, we failed to add the marital status language to some of the new provisions of § 49-2-305, MCA. These amendments correct that oversight.

Thank you and I will be happy to answer any questions you may have on the bill or the amendments.

discriminatory acts committed by management employees. Because the law does not define the management employee or employer there is no liability on part of the manager because of their own act. HB 561 does not waive liability, but allows it to be placed on an employee if the employee should have known better.

Proponents' Testimony:
Anne MacIntyre, Human Rights Commission, read from prepared testimony. (Exhibit #1) Ms. MacIntyre submitted a copy of the provision of the Human Rights Act. (Exhibit #2)

Dan Ritter, Montana Chamber of Commerce, supports HB 561.

Opponents' Testimony:
NONE

Questions From Committee Members and Responses:
NONE

Closing by Sponsor:
Rep. Brown closed.

HEARING ON HB 496

Opening Statement by Sponsor:
Representative Wyatt, District 37, said HB 496 revises the Montana Human Rights Law replacing the term "handicapped" and "handicapped person" with the term "disability" and "person with a disability." HB 496 also amends sections introduced at the request of the Human Rights Commission. The purpose of HB 496 is to update terminology used in the Montana Human Rights Law so it is consistent with the terminology used in the Americans with Disabilities Act (ADA). Rep. Wyatt told the Committee the other change is on page 11, line 14, and page 15, line 8, which talks about marital status. Rep. Wyatt urged support for HB 496.

Proponents' Testimony:
Anne MacIntyre, Human Rights Commission, supports HB 496.

Opponents' Testimony:
NONE

Questions From Committee Members and Responses:
Senator Bartlett asked Ms. MacIntyre if the language "a person using a wheelchair" would be more appropriate than "a person in a

wheelchair." Ms. MacIntyre said yes.

Closing by Sponsor:
Rep. Wyatt told the Committee that the term handicapped came from an old english phrase. "Carry your cap in hand in order to beg." Rep. Wyatt said people with disabilities do not see themselves as carrying their cap in hand and they are asking the Committee to recognize that change.

HEARING ON HJR 21

Opening Statement by Sponsor:
Representative Whalen, District 93, said HJR 21 is a resolution that addresses concern of the current nominee process to nominate Justices to the Federal Bench. The purpose of HJR 21 is to request the Attorney General to discontinue the practice of granting the American Bar Association the privilege of recommending judicial nominees.

Proponents' Testimony:
Representative Randy Vogel, District 86, said he is in support of HJR 21 because the American Bar Association gives the nominations to the Attorney General. The citizens have no say in the choice of the nominee even though those judges would be deciding high and important decisions.

Opponents' Testimony:
NONE

Questions From Committee Members and Responses:
Senator Halligan asked Rep. Whalen why the ABA should discontinue recommending judges. Rep. Whalen said the American Bar Association takes positions on political and social issues which cause a loss of public confidence. Judges are supposed to decide issues in a fair and impartial manner.

Senator Blaylock asked Rep. Whalen if other groups recommend judgeships. Rep. Whalen said the ABA was the only group with the privilege of recommending judicial nominees.

Senator Blaylock asked Rep. Whalen who recommended Judge Thomas. Rep. Whalen said Judge Thomas was on the list of the ABA.

Senator Blaylock asked Rep. Whalen if there would be a free speech problem with HJR 21. Rep. Whalen said no. Rep. Whalen said the ABA can still recommend as a private agency, but they would not be given governmental authority and sanction by the Attorney General.

Closing by Sponsor:
Rep. Whalen hopes the Committee would view this issue not based upon particular feelings about the position the State Bar has taken on controversial issues, but on the standpoint of sending a message to the Attorney General. The concern is with the appearance it creates to the American public because the nominees are selected by a private organization that does not represent the American public. The ABA does not attempt to represent the American public and represents less than half the lawyers in the country as members. Rep. Whalen urges support for HJR 21.

EXECUTIVE ACTION ON HB 496

Motion:
Senator Brown moved HB 496 BE CONCURRED IN.

Discussion:
Senator Bartlett asked to hold on the motion in order to check on the terminology in regard to wheelchairs.

Senator Brown WITHDREW his motion.

EXECUTIVE ACTION ON HB 561

Motion/Vote:
Senator Franklin moved HB 561 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 405

Motion:
Senator Halligan moved amendment hb040501.avl. (Exhibit #3)

Discussion:
Senator Halligan explained the amendments.

Senator Towe asked Ms. Lane about item #8. Ms. Lane said the language came out of the statute that extends the statute of limitation for sexual abuse of children. Ms. Lane said she was going to include ritual abuse of a minor in that statute, but every other sentence contained sexual abuse of a child and it would become awkward to include ritual abuse of a minor. Ms. Lane said it would be less complicated to duplicate the statute for ritual abuse of a minor. Ms. Lane said the language was

ROLL CALL

SENATE COMMITTEE Judiciary DATE 3-10-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty	X		
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield	X		
Senator Halligan	X		
Senator Harp			X
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock	X		
Senator Rye			X

FC8

Attach to each day's minutes

DATE 3-12-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 496 - Wyatt. HJR 21

H.B 521 - Brown

Name	Representing	Bill No.	Check One Support	Oppose
C ZITTZ	MT CHAMBER	HB561	X	
Anne MacDonald	Human Rights Commission	HB561	X	
Anne MacDonald	Human Rights Comm	HB496	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY